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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in Romania

Report by the Secretary-General submitted pursuant to resolution 1992/64 of the Commission on human rights

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INTRODUCTION

1. At its forty-eighth session, on 3 March 1992, the Commission on Human Rights adopted resolution 1992/64 entitled "Situation of Human Rights in Romania", the operative part of which reads as follows:

"The Commission on Human Rights,

...

1. Takes note with appreciation of the report of the Special Rapporteur (E/CN.4/1992/28);

2. Expresses its gratitude to the Special Rapporteur for the report and for the manner in which he has discharged his mandate;

3. Welcomes the steps taken to establish in Romania a democratic and pluralist system of government based on respect for human rights and the rule of law;

4. Takes note of the fact that respect for human rights in general continues to improve in Romania, although considerable shortcomings remain to be overcome, as pointed out in the report of the Special Rapporteur, inter alia, as regards the practical application of the new constitutional and legislative rules (para. 139), the independent and impartial functioning of the justice system (paras. 143 and 144) and the minority problem (paras. 153-160);

5. Urges the Government and authorities of Romania to continue their efforts to ensure respect for human rights in all their aspects in the country, both de jure and de facto, in particular by paying attention to the observations made by the Special Rapporteur and by implementing his recommendations;

6. Takes note with appreciation of the positive attitude of the Government of Romania and its declared readiness to continue to cooperate with the Commission on Human Rights;

7. Welcomes the close cooperation between the Government and authorities of Romania and the Centre for Human Rights in the field of advisory services;

8. Welcomes also the conclusion, on 23 September 1991, of an agreement between the Centre for Human Rights and the United Nations Fund for Advisory Services and Technical Assistance in the Field of Human Rights, on the one hand, and the Government of Romania, on the other, providing for publications, training, education, seminars, workshops, fellowships, advisory services of experts and support for national institutions to be given for a period of two to three years commencing 1 October 1991;

9. Requests the Secretary-General:

(a) To bring the present resolution to the attention of the Government of Romania and to invite it to provide information regarding its implementation;

(b) To report to the Commission at its forty-ninth session on the implementation of the present resolution, particularly on the measures referred to in paragraph 4, taking into account also information provided by intergovernmental as well as non-governmental organizations;

10. Decides to continue its consideration of the question in the light of the report of the Secretary-General to the Commission at its forty-ninth session."

2. Pursuant to paragraph 9 (a) of this resolution, the Secretary-General sent to the Minister for Foreign Affairs of Romania on 6 November 1992 a note verbale inviting the Government to provide all the necessary information concerning the implementation of the above-mentioned resolution.

3. Pursuant to paragraph 9 (b) of resolution 1992/64, an international organization and several non-governmental organizations provided information which is reflected in summarized form in annexes II, III and IV to this report.

I. REPLY OF THE PERMANENT REPRESENTATIVE OF ROMANIA TO THE UNITED NATIONS OFFICE AT GENEVA

4. In reply to the note verbale of the Secretary-General, the Permanent Representative of Romania to the United Nations Office at Geneva sent to the Centre for Human Rights a note verbale dated 5 January 1993 transmitting a document concerning measures taken to guarantee and promote the implementation of human rights in Romania during the year 1992. This document reads as follows:

"Information submitted by the Government of Romania pursuant to Commission on Human Rights resolution 1992/64 of 3 March 1992

1. During 1992, Romania continued its progress towards democracy and the rule of law, based on respect for human rights and political pluralism.

Fundamental changes have taken place in Romanian society, involving all the legislation and the organization of the State, as well as transition towards a market economy.

While more rapid advances have been made in certain areas, progress will take time because of the difficulties of the transition to a market economy, the requirement to train new cadres and the particular problems of the process of education and modification of attitudes.

The decision taken is irreversible, however, and the path we are to follow has been marked out. Another feature of the year 1992 was the development of Romania's participation in international cooperation in the field of human rights.

2. Within a short period of under three years, Romania has adopted a Constitution, 237 new laws and many decree-laws, a legislative effort that is clear evidence of change and of the determination to build in Romania a new State based on the rule of law.

With regard to the texts of the principal laws and Government decisions adopted since September 1991 that contain provisions in the area of human rights, a list is attached that brings up to date the list annexed to the report on the situation of human rights in Romania submitted to the Commission at its forty-eighth session (E/CN.4/1992/28, annex II) [see annex I to this report].

3. The local and general elections held in 1992 marked an important stage in Romania's democratic development.

The local elections held in February 1992 to fill town hall offices and seats on communal and town councils were the first free elections of this kind held in Romania since the Second World War. They took place generally without incident and resulted in the election of 2,918 mayors, of whom 2,699 were of Romanian origin and 217 were members of national minorities (184 Hungarians, 11 Germans, 9 Ukrainians, 8 Serbs, 3 Czechs/Slovaks, 2 Bulgarians and 2 from other minorities). A large number of mayors and councillors, particularly in the large towns, including Bucharest, were nominated as candidates by the Democratic Convention, a coalition of opposition parties.

The presidential and parliamentary elections were held without incident in September and October 1992. They were witnessed by 562 foreign observers, from 35 countries, and 7,572 Romanian observers. The observers found that the elections had taken place in a free and fair manner.

Certain technical and administrative deficiencies in the organization of the elections did not in any way influence the results, which were challenged only in respect of some minor matters. For example, the large number of spoiled ballots (approximately 10 per cent of the electorate) was due to the similarity of the electoral symbols of certain parties and to confusion as to how to vote, e.g. in the case of the Democratic Convention and its component parties and the parties formed by members of the Gypsy ethnic group. As a result of this, many electors voted for several political formations, thus rendering their ballots invalid.

Similarly, the large number of persons entered on special lists (more than 10 per cent of the electorate) was due to inadequacies in the population data for several urban districts, to the recording of members of the armed forces, school-children, students and hospital patients on

special lists and to the movement of electors from towns into rural areas at weekends, and could not affect the votes of the persons concerned.

Furthermore, the results are much more balanced than those of the 1990 elections, since no party obtained an absolute majority in the Parliament (the largest number of votes was obtained by a party representing approximately 35 per cent of the Parliament).

4. Following the adoption of the new Constitution, the reform of the administration of justice in Romania is an important factor in the democratic organization of the country. New legislation adopted has included Act No. 92/1992 on the organization of justice; Act No. 47/1992 on the organization and functioning of the Constitutional Court; Act No. 94/1992 on the organization and functioning of the Court of Audit; and Act No. 104/1992 amending and supplementing the Criminal Code, the Code of Criminal Procedure and other legislation.

(a) The Constitutional Court, composed of nine independent and irremovable judges elected for a nine-year term, has the following main functions: deciding on the constitutionality of laws, before their promulgation, and on the constitutionality of regulations adopted by the Parliament; ruling on challenges of the constitutionality of laws and ordinances, presented in the courts by any party to proceedings or by a court itself; ruling on any challenges of the constitutionality of a political party by the President of one of the chambers of Parliament, (following a vote in that chamber) or by the Government; and supervising election and referendum procedures.

The Constitutional Court has already begun its work and has handed down several major rulings. These include the Court's decision declaring unconstitutional a law adopted by the Parliament which was designed to suspend proceedings for recovery of property improperly acquired by the State, as well as the execution of judgements on this subject. The basic reason for the Court's decision was that this law was prejudicial to the independence of the judiciary and to the separation of powers within the State.

(b) The new organization of justice, based on the principle of the separation of powers, provides for a new judicial system composed of four levels, namely: 179 courts of first instance (as compared with 98 at present); 41 departmental courts; 15 appeal courts for regions comprising two or three departments; and a new judicial level, re-established after 44 years in order to have a third level of jurisdiction, the Supreme Court of Justice.

With regard to the military courts, under a bill submitted to Parliament, there will be four courts of first instance, a territorial military court and a military court of appeal. Under Act No. 104 of 1 October 1992, the competence of the military courts was considerably reduced by the elimination from their purview of offences committed against the State by civilians, offences against peace and humanity and offences against the State committed by judges, civilian procurators and State notaries. In addition to offences committed by military personnel,

the military courts will be competent to judge, only offences committed in the performance of their duties by civilian personnel of military units and offences committed by civilians against the property of military units.

(c) The former "Procuratura" will be organized as a government procurator's office. The procurators will be organized in parquets attached to the different courts and functioning under the authority of the Minister of Justice.

(d) The Supreme Council of Justice which has been established will have as its primary functions to make recommendations to the President of Romania for the nomination of judges and government procurators and to decide on the promotion, transfer, suspension and removal of judges, acting as a disciplinary council for the judiciary.

(e) The Court of Audit, reinstituted after a period of 45 years, will be the supreme body conducting financial controls and exercising jurisdiction in financial matters. It will be attached to the Parliament.

Audit chambers will function in each of the 41 departments of Romania.

5. As regards the administration of prisons, since 17 January 1991, following the transfer of this function to the Ministry of Justice, major changes have been made that are designed to ensure respect for the rights of prisoners:

- Several internal orders and regulations, which contained rules characteristic of the Communist regime, have been reviewed and abolished;

- Free access to prisons, allowing visits by the lawyers and relatives of prisoners, as well as by representatives of the mass media seeking information, has now become a reality, whereas in the past prisons seemed almost like closed fortresses;

- The training and education programme for prison personnel has been completely modified in the spirit of the requirements dictated by the principles of justice and respect for human rights;

- New draft legislation on the execution of penalties and new prison regulations have been drawn up and will be submitted to the Parliament;

- A sustained financial effort is being made to improve the material conditions of the prison system.

The former regime having left an extremely heavy burden (13 of the 40 departments of Romania lack a prison), achievement of the desired progress will take some time.

6. The general and local elections have led to quite substantial changes in the machinery of the State and the fundamental aim has been to achieve greater professionalism and competence. The mayors and councillors of communes and towns are elected, whereas the departmental councils are set up on the basis of the town and commune councils. Only the prefects and deputy prefects are appointed by the Government.

In the field of justice, radical changes have been made at the top level of the Ministry, in the Supreme Court of Justice and in the ordinary courts. Persons compromised by their activities during the Communist regime have been removed either by transfer or by compulsory retirement. The posts which have thus become vacant have been filled by competitive examination and this has led to the promotion of many well-qualified young judges.

The reform of the judicial system, as well as the changes in the economy, have increased the requirement for able judges, jurists and lawyers.

During the years of the dictatorship, the three faculties of law (at Bucharest, Cluj-Napoca and Lasi) together produced some 200 to 250 graduates annually, which was insufficient to meet the need.

Since the revolution of December 1989, the number of faculties of law organized by the State has doubled and the number of students has increased substantially. In the private universities, there are now some 10 faculties of law. The students in the new faculties are now in their third year of studies. By 1994, therefore, an adequate number of lawyers will be available.

7. On the question of the minorities, the Romanian authorities have devoted particular attention to the comments and observations of the Special Rapporteur (E/CN.4/1992/28, paras. 153-160). From the human rights standpoint, the situation of the Hungarian minority continued to improve in 1992. The general elections of September 1992 maintained the level of representation of the Hungarian minority in the Romanian Parliament (39 deputies and senators), following elections in which the Democratic Union of Hungarians of Romania participated within the framework of the Romanian Democratic Convention, together with other parties and political bodies.

Each of the other national minorities is represented by a deputy, in accordance with the electoral law, since they won no seats in the elections.

The local elections held in February 1992, in which the Democratic Union of Hungarians of Romania participated as a member of the Democratic Convention, resulted in the election of 184 mayors and 2,950 councillors in towns and communes having a population of Hungarian ethnic origin. In the department of Covasna, for example, 31 mayors of Hungarian origin and 7 mayors of Romanian origin were elected; in the Department of Satu-Mare 40 mayors of Romanian origin, 18 of Hungarian origin and 2 of German origin were elected; in the department of Mures 64 mayors of Romanian

origin and 33 mayors of Hungarian origin, 785 councillors of Romanian origin, 478 councillors of Hungarian origin, 5 councillors of German origin and 29 councillors of Gypsy origin were elected.

8. The situation with regard to teaching in the mother tongues of minorities in Romania is described in attachment No.2 to the present note [see annex I to this report]. Proportionally, it is comparable to the situation in other European countries.

Depending on the way the local school system is organized, the parents of pupils are entitled to choose for their children's education either their mother tongue or Romanian. The system is therefore an open one which depends on the situation that prevails at the start of each school year and, depending on the requests made, there may be a greater or smaller number of schools and classes teaching in the mother tongues. Whenever 15 parents opt for the teaching of their children in their mother tongue, a class is formed for these children, even if there is no school using that language in the locality concerned.

In addition, in some remote localities, at the request of the parents groups of seven pupils may study in their mother tongue.

Admittedly, the situation is not ideal, since in some areas the number of pupils or classes will exceed the established limits because of a lack of accommodation or of teachers. It will take some time to remedy this situation, which affects the entire school population of Romania and not any particular minority.

Another matter of concern to the Romanian authorities, in those areas where the majority of the population is of Hungarian origin, is the situation of pupils of Romanian origin who often have no school or class using their mother tongue and for whom the number of teachers of Romanian is inadequate.

As regards university studies in the students' mother tongue, people belonging to the Hungarian minority may study in their mother tongue at the Tîrgu-Mures Theatre Institute (all subjects), at the Tîrgu-Mures Institute of Medicine and Pharmacology (over 60 subjects) in some departments and units at the University of Bucharest (philology) and especially at the University of Cluj-Napoca.

For the academic year 1992-1993, the University of Cluj-Napoca has an enrolment of 1,799 students of Hungarian origin. Of these, 869 are doing their studies in Hungarian. There are 3 departments, 52 units and 15 sub-units in which 179 subjects are taught in Hungarian.

A private university named "Bolyai" has just been established in Cluj-Napoca. An education bill is at present being considered and if this institution meets the statutory requirements it will be recognized as a university.

The Romanian State therefore provides university education in the mother tongues of the minorities, within the framework of efforts to maintain and develop the national identity of persons belonging to minorities.

9. The situation with regard to radio and television broadcasts in the various mother tongues is as follows:

Bucharest radio has daily broadcasts in Hungarian and in German;

The local radio stations at Cluj-Napoca, Tîrgu-Mures and Timisoara have daily programmes in Hungarian; the stations at Tîrgu-Mures, Timisoara and Constanta also have daily broadcasts in German; the Timisoara station also broadcasts in Serbo-Croat, Bulgarian, Czech and Slovak, and the Constanta station in Greek, Turkish, Lipovan, Tartar, Armenian and Romanian;

Bucharest television presents broadcasts twice weekly in Hungarian (90 minutes); once a week there is a programme in German (60 minutes); and four times a week there is a programme called "Together", which is designed for other minorities;

The Cluj-Napoca regional television station presents three programmes in Hungarian and one in German every week;

Private television stations in Timisoara, Arad, Brasov and Oradea also provide weekly programmes in Hungarian;

The Timisoara, Arad and Brasov stations also have programmes in German, while the Timisoara station has programmes in Serbo-Croat.

10. The minorities are well represented in public bodies, particularly in the regions where they are more numerous. For example, following the local elections in February 1992 the department of Harghita (with a population that is 84.6 per cent of Hungarian origin, 14 per cent of Romanian origin and 1.2 per cent of Gypsy origin) has 48 mayors of Hungarian origin and 10 of Romanian origin, 677 councillors of Hungarian origin and 102 of Romanian origin, and 50 deputy mayors of Hungarian origin and 7 of Romanian origin. The President of the departmental council is of Hungarian origin, as are most of the prefecture officials.

Following the same elections, the district of Bihor (with a population that is 66.1 per cent of Romanian origin, 28.5 per cent of Hungarian origin, 3.6 per cent of Gypsy origin and 1.4 per cent of Slovak origin) has 77 mayors of Romanian origin, 16 of Hungarian origin and one of Slovak origin, 1,022 councillors of Romanian origin, 252 of Hungarian origin, one of Gypsy origin and 20 of Slovak origin, as well as 74 deputy mayors of Romanian origin and 12 of Hungarian origin. The prefect is Romanian and the deputy prefect is Hungarian. There are 84 secretaries of mayor's offices who are of Romanian origin and 11 of Hungarian origin.

In the towns and communes, local autonomy is exercised by the local councils and the elected mayors. Consequently, in those localities where the population of Hungarian origin forms the majority, councils and mayors of Hungarian origin are responsible for the conduct of local affairs.

In this connection, attention is drawn to the Local Public Administration Act (No. 69 of 20 November 1991) which provides that public administration in the regional administrative units is based on the principles of local autonomy, decentralization of public services, eligibility of the local government authorities and consultation of the citizens on local issues of special interest. The functions of the local councils - which are elected - include: approval of economic and social development studies, forecasts and programmes; approval of the local budget, as well as its preparation, operation and execution; the establishment of taxes and local charges; the administration of public and private property in the locality; the establishment of local economic bodies and the functioning of local services, transport, utilities, etc.

11. It is true that there is still a climate of distrust between the Hungarian and Romanian communities in certain parts of the country. This seems to be mainly due to views and conceptions of "ethnic autonomy or self-determination" that are based on the desire for separate development of the Hungarian minority, are quite unrelated to the principles and norms of international law and are seen as imperilling the integrity and territorial unity of the country. The experience of history and the situation in certain neighbouring countries only add to the distrust of the organizations and persons upholding these views, particularly when they appear to be inspired by other States or foreign organizations.

Unfortunately, there still exist in Romania, and also abroad, certain publications in Hungarian, as well as in Romanian, which cultivate this distrust rather than understanding and tolerance.

During 1992, the Romanian authorities adopted a firmer attitude towards manifestations of chauvinism and anti-semitism, which they denounced, together with the extremist language used in certain publications. The Government of Romania reaffirmed in its statement of 25 March 1992 its determination strictly to observe the obligations it has assumed under the conventions and other international instruments to which Romania is a party and whose object is to prevent, combat and punish discrimination based on race, colour, national origin or religion. The text of this statement is to be found in attachment No. 3 (see annex 1 to this report).

12. The new Constitution of Romania provides in article 6 that "The State recognizes and guarantees the right of persons belonging to the national minorities to preserve, develop and express their ethnic, cultural, linguistic and religious identity".

The Constitution also states that "the measures of protection taken by the State for the preservation, development and expression of the

identity of persons belonging to the national minorities must be consistent with the principles of equality and non-discrimination vis-à-vis other Romanian citizens".

It is true that the Romanian State, the majority of whose population (90 per cent) is Romanian, like other unitary States, has a single national language. In the areas inhabited by persons of whom a significant majority belong to minorities, the local administration includes public officials who are of these minorities. Everyone is entitled to communicate with the local government, authorities and services in his mother tongue and to submit oral or written complaints in that language. He must receive a reply to any such communication and he may institute administrative proceedings in respect of any act by an executive organ which he considers prejudicial to him.

Judicial proceedings are conducted in Romanian, but everyone may have an interpreter, the latter being provided at State expense in criminal proceedings. This is for reasons related to the three-level judicial system comprising the local courts, the district courts, the appeal court and, of course, the Supreme Court of Justice. Since remedies must be available to all, at all levels of justice, it is necessary to use a single language so as to ensure that the remedies are available throughout the entire legal system, that the time limits specified in the procedural rules are observed and that decisions are taken on the basis of full information. This is also a question related to the unity of the judicial process and, of course, the country's financial capacity.

13. The situation and needs of the Gypsy community are now better understood. It is true that certain members of this community are experiencing difficulty in integrating into Romanian society, particularly during the present period of transition to a market economy. The Gypsy authorities and associations have nevertheless initiated a dialogue, particularly at the local level, in order to find solutions to the various problems. Measures have been taken to rebuild houses destroyed in local conflicts in certain areas (Kogalniceanu-Constanta). The first steps have also been taken to provide education for the children of this community, using teachers from within the community who are trained in units of existing teacher-training establishments.

A special programme has just been launched by the French Association of Human Rights Consultants, with the assistance of the French Ministry for Humanitarian Action, to implement the project for the social reintegration of the Gypsy community in Romania. This programme comprises educational, social and health aspects and is being carried out with the participation of Gypsy organizations, specialized international non-governmental organizations and local authorities. A pilot project in the field of education was carried out in July-August 1992.

14. The situation with regard to relations between the national majority and the minorities has, on the whole, become much more calm.

The best proof of this is the orderly and peaceful conduct of the local and general elections, the active participation of the minorities and the results the latter have achieved in the areas where they dwell.

The strengthening of democracy and the transition to a market economy are expected to offer conditions that are more likely to alleviate tensions and eliminate animosity.

The Romanian authorities and the non-governmental organizations have already initiated a dialogue, particularly at the local level, on all the questions of concern to the various circles among the populations of various ethnic origins in Romania: historians, journalists, teachers, writers, etc.

The international assistance in the field of human rights from which Romania has continued to benefit has expanded. The year 1992 was the first year of implementation of the United Nations programme of advisory services and technical assistance in the field of human rights for Romania, which was the subject of an agreement concluded with the United Nations Centre for Human Rights on 23 September 1991.

The Romanian authorities and non-governmental organizations have continued their participation in the Council of Europe's Démos and Démo-droit programmes.

A number of programmes, including lectures and seminars, scholarships, exchanges of experience, provision of documentation and improvement of the information and documentation infrastructure are currently being carried out in cooperation with such countries as France, the United States of America, Germany, the United Kingdom, Sweden, Italy, Denmark and Canada.

15. A number of communications concerning the situation in Romania have been sent to the United Nations Centre for Human Rights by Romanian citizens and by non-governmental organizations.

The replies furnished by the Romanian authorities will be found below."

5. Documents 1, 2, 3 and 4 attached to the reply of the Romanian Government are reproduced in annex I to this report.

6. The Romanian Government has also sent to the Centre for Human Rights a copy of the correspondence it transmitted on 6 January 1993 concerning two cases referred to it in accordance with the procedure laid down in Economic and Social Council resolution 728F (XXVIII). Because of the confidential nature of this procedure, the content of these replies is not reproduced in the present report.

II. OTHER RELEVANT INFORMATION

A. Advisory services and technical assistance

7. The Commission on Human Rights, in its resolution 1992/64 of 3 March 1992, welcomed the close cooperation between the Government and authorities of Romania and the Centre for Human Rights in the field of advisory services, and also welcomed the conclusion, on 23 September 1991, of an agreement between the Centre and the Government providing for publications, training, education, seminars, workshops, fellowships, advisory services of experts and support for national institutions over a two-to-three-year period commencing 1 October 1991. That agreement had been drafted on the basis of an expert mission to the country in 1991 and, subsequently, detailed plans for its implementation were developed and, as necessary, modified to take into account changing conditions and needs.

8. During 1992, the Centre continued the implementation of the long-term country programme of advisory services and technical assistance which was agreed between the Centre and the Government of Romania in September of 1991. Previous activities in this regard have included the advisory services of experts in the legal and technical aspects of democratic elections in April and May of 1990; technical assistance in the drafting of the Romanian Constitution, in the form of a seminar on human rights in constitutional law held in Geneva in December of 1990 and a mission of experts to Bucharest in February 1991. Also in 1991, the Centre organized a seminar on international human rights standards for the judges of the Romanian Supreme Court and the Presidents of the district courts of appeals, as well as a one-day briefing on the United Nations and human rights for Romanian non-governmental organizations. The activities within the context of the country programme in 1992 are listed below.

9. In April and May 1992, at the request of the Government of Romania, a mission composed of a Swiss electoral expert and two staff members of the Centre responsible for electoral assistance visited Bucharest. The mission sought to provide expert advice with regard to the legal, technical and human rights aspects of local, parliamentary and presidential elections scheduled for 1992. The team met with representatives of the Government, the various political parties, minority groups, and the administrative bodies charged with the conduct of elections. Working sessions were held with members of the judiciary and with persons responsible for the drafting of electoral laws.

10. During these meetings the team consulted with the parties involved regarding a number of problems identified in the electoral laws and procedures. Specific preliminary recommendations were made by the team, drawn from international standards and the comparative practice of a number of other democratic jurisdictions and based upon the Centre's review of certain difficulties identified in connection with previous elections in Romania. A comparative table was prepared showing the difficulties encountered during previous elections, possible solutions, and texts from other jurisdictions upon which solutions might be based. While in Bucharest, the team offered suggestions for overcoming difficulties and a detailed analytical report was subsequently drafted to provide further assistance for the elections.

11. During the national elections themselves, in October 1992, a staff member of the Centre for Human Rights with expertise in the area of elections took part in an electoral observation mission of United Nations officials organized by the Secretary-General at the request of the Government.

12. Throughout the year, the Centre continued to provide financial, organizational and documentary support to the Romanian Institute for Human Rights, which was established as an independent national institution for the promotion of human rights by the Romanian Parliament in 1991. The Centre assisted the Institute in its education, training, research and documentation mandates.

13. A training course on "Human Rights in the Administration of Criminal Justice" was held in Bucharest from 19 to 23 October 1992. The course was attended by some 70 Romanian police, prison and military officials, drawn from various duty stations around the country. A panel of international experts, assembled both for their familiarity with international human rights standards and their practical experience in the field of law enforcement, led discussions with participants on a variety of relevant topics. A participatory working group model of instruction was utilized to ensure the active involvement of the participants.

14. Topics covered in the course included the sources, systems and standards for international human rights in the administration of criminal justice; the duties and guiding principles of ethical police conduct; the use of force in law enforcement; the crime of torture; effective methods of legal and ethical interviewing; human rights during arrest and interviewing; the legal status and rights of the accused; standards for search and seizure; pre-trial detention and the role of police; the administration of justice in situations of internal conflict, states of emergency and civil disorder; legal crowd-control measures; minimum standards for facilities for prisoners and detainees; prison health issues, including AIDS and the HIV virus; special categories of prisoners and detainees, including juveniles, women and remand prisoners; prison administration, discipline, punishment and recourse procedures; juvenile offenders and the police, prison and military officials; crowd control and the use of force; the rights of women in the administration of justice; protection and redress for victims; community policing and non-custodial measures; protection of refugees in criminal justice; non-discrimination and minority relations; investigating violations; effective human rights training; the establishment and administration of democratic policing.

15. From 30 November to 4 December 1992, the Centre held a seminar on human rights in the administration of justice for 40 Romanian judges, lawyers and procurators in Bucharest. Participants from around the country took part in discussions and working sessions led by a panel of international and domestic experts on a range of subjects related to the human rights implications of the daily work of legal professionals. Topics covered included international sources, systems and standards for human rights; the independence of judges and lawyers; human rights in criminal investigations; the rights of the accused during arrest and detention; the elements of a fair trial; standards

for the protection of prisoners; non-custodial measures; the administration of juvenile justice; equality and non-discrimination in the justice system; and the rights of women in the administration of justice.

16. During the week of 7 to 11 December 1992, a training course on the teaching of human rights for Romanian primary school teachers was held at the Romanian Institute for Human Rights in Bucharest. Carefully selected participants from each of the country's 41 districts benefited from a full week of intensive working sessions designed to prepare them to return to their respective classrooms and introduce human rights into daily classroom activities.

17. A training course for Romanian teachers at the secondary school level was conducted in Bucharest from 14 to 18 December 1992. This course was specially targeted to the needs of secondary school instructors in the teaching of human rights. In preparation for these training courses, the Centre for Human Rights sponsored the participation of Romanian school teachers in the annual teacher training programme of the World Association for the School as an Instrument of Peace.

18. The Centre also aided the Romanian authorities throughout the year in the provision of comparative legal texts sought by the Government to assist them in the process of legislative development. In this regard, the Centre collected the organic laws of a number of democratic jurisdictions relating to the establishment and functioning of the Defender of the People, political parties, the Superior Council of the Judiciary and the Public Ministry, and forwarded them to the Government.

19. Finally, the Centre participated in the UNDP Round Table on Change, Systems and People, held in Bucharest from 4 to 6 September 1992. The Chief of the Advisory Services and Technical Assistance Branch delivered a presentation entitled "Transition process: respect for human rights and ethnic and religious diversity in a pluralistic system", at that event.

B. Activities of the rapporteurs of the Commission on Human Rights

20. In the report submitted by the Special Rapporteur on religious intolerance at the forty-ninth session of the Commission on Human Rights (E/CN.4/1993/62), paragraph 50 refers to the communication dated 18 September 1992 which the Special Rapporteur sent to the Romanian Government in connection with problems concerning the Uniate Church.

Annex I

DOCUMENTS ANNEXED TO THE REPLY OF THE PERMANENT REPRESENTATIVE OF ROMANIA TO THE UNITED NATIONS OFFICE AT GENEVA

Attachment No. 1
(see para. 4 of the report)

Most important legislation having human rights implications, adopted during the period September 1991-December 1992

1. Act No. 59 of 16 September 1991 amending and supplementing Decree-Law No. 118 of 30 March 1990 concerning the granting of certain rights to persons persecuted for political reasons by the dictatorship established on 6 March 1945.

2. Organization and Conduct of Public Meetings Act (No. 60) of 23 September 1991.

3. Act No. 61 of 27 September 1991 relating to the punishment of acts contrary to accepted social standards and to public peace and order.

4. Local Public Administration Act (No. 69) of 26 November 1991.

5. Local Elections Act (No. 70) of 26 November 1991.

6. Act No. 72 of 14 December 1991 amending and supplementing Act No. 1/1991 relating to the social welfare of unemployed persons and their vocational reintegration.

7. Act No. 73 of 14 December 1991 establishing certain social security entitlements, and amending and supplementing certain provisions of social security and pension legislation.

8. Government Decision No. 48 of 3 February 1992 concerning the establishment and organization of the National Institute for the Initial and Further Training of Magistrates.

9. Government Decision No. 58 of 8 February 1992 amending Government Decision No. 417/1991 concerning the establishment of the Romanian Committee on Migration Problems.

10. Government Decision No. 97 of 24 February 1992 concerning authorization to establish the university-level Franciscan Roman Catholic Theological Institute at Roman, department of Neamt.

11. Act No. 14 of 24 February 1992 relating to the organization and functioning of the Romanian Information Service.

12. Act No. 22 of 12 March 1992 amending and supplementing Decree-Law No. 118/1990 concerning the granting of certain rights to persons persecuted for political reasons by the dictatorship established on 6 March 1945, and to persons deported or held as prisoners.

13. Government Decision No. 164 of 6 April 1992 concerning authorization to establish the university-level Pentecostal Theological Institute in Bucharest.

14. Government Decision No. 165 of 6 April 1992 concerning authorization to establish the university-level Seventh Day Adventist Theological Institute in Bucharest.

15. Act No. 41 of 18 May 1992 relating to the organization and functioning of the Constitutional Court.

16. Television and Radio Broadcasting Act (No. 48) of 21 May 1992.

17. Social Security of Disabled Persons Act (No. 53) of 1 June 1992.

18. Romanian State Frontier Act (No. 56) of 4 June 1992.

19. Organization of Justice Act (No. 92) of 9 July 1992.

20. Act No. 68 of 15 July 1992 relating to the election of the Chamber of Deputies and the Senate.

21. Act No. 65 of 8 July 1992 amending and supplementing the Criminal Code in respect of certain corrupt practices.

22. Election of the President of Romania Act (No. 69) of 15 July 1992.

23. Act No. 88 of 22 July 1992 amending and supplementing provisions of the Criminal Code and the Code of Criminal Procedure.

24. Rules of organization and procedure of the Constitutional Court, Official Gazette No. 190 of 7 August 1992.

25. Government Decision No. 466 of 19 August 1992 approving the proposals of the Central Commission to draw up an inventory of State-owned goods previously owned by the Romanian (Greco-Catholic) Church United with Rome and to return them to that Church.

26. Act No. 94 of 8 September 1992 relating to the organization and functioning of the Court of Audit.

27. Act No. 104 of 22 September 1992 amending and supplementing the Criminal Code, the Code of Criminal Procedure and other legislation, and rescinding Act No. 59/1968 and Decree No. 218/1977.

28. Act No. 105 of 22 September 1992 relating to the regulation of relations in private international law.

Appended document No. 2
(see para. 4 of the report)

Statistical data concerning education in the mother tongue of minorities (school year 1991-1992)

1. Schools classified according to language of education

of institution	Total units and sections	of which: units and sections using							
		Hungarian	German	Serb	Ukrainian	Slovak	Czech	Bulgarian	Turkish
	2 831	2 428	303	42	11	38	5	2	2
ary schools	1 285	1 085	161	16	7	10	2	2	2
ary schools and r-secondary ols	1 322	1 139	127	24	3	26	3	-	-
er-secondary ols	153	135	14	1	1	2	-	-	-
tional training itutions	58	57	-	1	-	-	-	-	-
-secondary itutions	13	12	1	-	-	-	-	-	-

2. Enrolment in relation to type of institution and mother tongue

e of titution	Total students	for whom: education in							
		Hungarian	German	Serb	Ukrainian	Slovak	Czech	Bulgarian	Turkish
al	245 507	222 826	18 711	1 535	542	1 409	217	186	81
sery schools	55 827	47 530	6 847	467	310	325	72	186	81
mary and er-secondary ools	146 341	134 486	10 167	575	140	918	145	-	-
her-secondary ools	35 547	33 409	1 605	275	92	166		-	-
ational ining titutions	6 589	6 380	-	209	-	-	-	-	-
t-secondary titutions	1 113	1 021	92	-	-	-	-	-	-

3. Teachers in relation to type of institution and mother tongue

of institution	Total teachers	for education in							
		Hungarian	German	Serb	Ukrainian	Slovak	Czech	Bulgarian	Turkish
	13 974	12 714	1 041	88	25	85	11	7	3
ry-school ers	2 695	2 336	298	23	13	13	2	7	3
ry teachers	3 818	3 415	319	34	5	36	9	-	-
ers in dary and r institutions	7 461	6 963	424	31	7	36	-	-	-

Attachment No. 3
(see para. 4 of the report)

Statement made by the Government of Romania on 25 March 1992

The Government of Romania notes with deep concern the appearance in some of the publications issued in Romania of expressions of chauvinistic or anti-semitic attitudes and opinions. The Government disapproves of and condemns such expressions, together with any attempt to use the Romanian press to encourage extremist tendencies of a "legionary" or fascist nature.

Such attitudes are particularly reprehensible in that the publications in question engage in unacceptable attacks on individuals, including the diplomatic representatives of a number of countries with which Romania maintains friendly relations, attacks which the Government resolutely rejects.

The expression of such views casts an undeserved shadow over Romania and the Romanian people, who have consistently rejected chauvinistic attitudes, hatred and violence, and any extremist tendencies which are highly prejudicial to the country and damaging to its national interests. They are seriously detrimental to Romanian society, particularly at a time when it is facing major problems calling for the involvement and cooperation of all national political forces and leaders.

At the same time, the Government of Romania draws attention to the fact that the anti-semitic views expressed in these publications, together with any extremist tendencies likely to lead to a revival of fascism and "legionarism" are contrary to the Constitution, which proclaims Romania as the shared and indivisible homeland of all its citizens, without distinction as to race, nationality, ethnic origin or religion, and prohibits the fomenting of racial hatred and incitement to discrimination between Romanian citizens.

All expressions of racism represent clear abuses of the exercise of the constitutional right to freedom of expression or information, and it is therefore the duty of the public prosecutor to bring such cases before the courts to enable the appropriate legal measures to be taken.

The Government of Romania reaffirms its determination strictly to fulfil the obligations assumed under the international conventions and instruments to which it is a party and whose object is to prevent, combat and punish discrimination based on race, colour, national origin or religion, and will, as one of the main aims of its policy, ensure respect for human rights and fundamental freedoms for all citizens, without distinction as to race, ethnic origin, language or religion.

The expressions of anti-semitism and extremism are the acts of a very small number of citizens expressing personal and isolated views. For this reason, the Government of Romania is convinced that the whole of Romanian society will reject such views and will not accept opinions and attitudes which are basically contrary to the authentic values of democracy and the rule of law.

Attachment No. 4

Reply by the competent Romanian authorities
(Ref. G/SO 215/1 ROMA, 12 August 1992)

The letter from the Christian Democratic Association for the Defence of Human Rights, based in Budapest, concerning the Romanian Government's decision on the removal and appointment of officials in the prefectures of the Departments of Covasna and Harghita, is based mainly on a misunderstanding of the provisions of the Romanian Constitution and of the Local Public Administration Act No. 69, of 26 November, as well as of the essential nature of the prefectural system.

1. Under the provisions of the Romanian Constitution (art. 122) and of the Local Public Administration Act No. 69/1991 (art. 11), the Government is empowered to appoint a prefect to each department and one for the city of Bucharest. The prefect represents the Government at local level and coordinates the decentralized units of ministries and other central bodies in the local administrative districts.

As the representative of the Government, the prefect is responsible for ensuring that the activities of local and departmental councils and municipalities (elected public authorities) are in accordance with the law. The local and departmental councils and municipalities are not subordinate to prefects (Act No. 69/1991, art. 98).

In ensuring the legality of the measures adopted and promulgated by local and departmental authorities, the prefect may contest any measures which he considers illegal before the administrative court. In such cases, implementation of the contested measure is suspended (Act No. 69/1991, art. 101).

Appointment and removal of prefects (and deputy prefects) are by Government decision (Act No. 69/1991, art. 96).

2. By its decision No. 388 of 18 July 1992, based on the provisions of the Constitution and the law, the Romanian Government removed Mr. Fodor Francisc, and Mr. Topolinschi Ioan-Mugur from the offices of Prefect and Deputy-Prefect of the Department of Covasna.

Mr. Telea Ioan-Dam and Mr. Fodor Francisc were appointed Prefect and Deputy-Prefect of the Department. Similarly, by Romanian Government decision No. 389, of 18 July 1992, Mr. Pataki Emeric and Mr. Urzica Nicolae Baciu were replaced as Prefect and Deputy-Prefect of the Department of Harghita by Mr. Vosloban Doru-Ioan and Mr. Vardai Gyorgy.

In accordance with the provisions of the Constitution and the law, the appointment and removal of prefects and deputy-prefects are not based on ethnic criteria, since they have no connection with the introduction of local autonomy or with ethnic representation of the population of the department.

Prefectural appointments are based on political and efficiency considerations and on the current political makeup of the Government or the

Government coalition (Government coalition including the National Salvation Front, the National Liberal Party, the Romanian Agrarian Democratic Party, the Ecological Party). It is quite in order and democratic for the Government in office to appoint ministers and prefects reflecting the composition of the Government coalition.

The Government may, of course, appoint independent persons to these offices or even representatives of the opposition, although it has no obligation to do so, and certainly no obligation to be guided by ethnic criteria.

Similar regulations are in fact applied in other countries where the prefectural system exists and has the same role as in Romania (e.g. France).

The two prefects, Mr. Fodor Francisc and Mr. Pataki Emeric, who are of Magyar ethnic origin and represent the Democratic Union of Hungarians of Romania (UDMR) took up their posts before the adoption of the new Romanian Constitution. Following the entry into force of the Constitution, their removal from office and the appointment of other prefects, about which there was nothing unusual, since the same procedure was followed in other departments, was a constitutional measure which merely placed the situation on a legal footing so as to enable the representatives of the current Government coalition to take up prefectural duties in the two departments, just as in the other 38 departments of Romania and the city of Bucharest.

The new Government may well appoint new prefects to the two departments, as in the other departments, to take account of the new political configuration resulting from the elections of 27 September 1992.

3. Conclusions

(a) The appointment of new prefects for the departments of Covasna and Harghita and the removal of their predecessors were based on the constitutional principle which provides for the appointment of prefects by the Government.

The procedure adopted is in accordance with the provisions of the Constitution and of the Local Public Administration Act No. 69/1991, the legal norms defining the nature of the office of prefect, as a representative of the Government and a senior local public official whose principal function is to ensure that the activities of local authorities are in accordance with the law and that the principles of a constitutional State are observed.

(b) The executive power has the responsibility of governing and, as such, has the duty, obligation and authority to appoint its local representatives on the basis of political criteria (taking account of the configuration of the political parties making up the Government) and of competence, and not on the basis of origin or ethnic group. At the same time, the Government may at any time remove prefects from office without having to justify its decision.

(c) The appointment and removal of the prefects of Covasna and Harghita are in no way related to the question of the rights of individuals who are members of an ethnic, national, linguistic or religious minority and therefore cannot constitute "violations of the basic rights of these two prefects".

Eligibility for appointment (we stress "appointment" and not "election") as a prefect is not an individual right and is not related to the question of preserving, developing and expressing the ethnic, cultural, linguistic and religious identity of persons who are members of minorities.

Furthermore, if one of the two prefects removed from office believes his rights as a Romanian citizen have been violated, he may avail himself of the judicial administrative procedure.

Annex II

INFORMATION PROVIDED BY THE INTERNATIONAL LABOUR OFFICE

A. Adoption of a new national Constitution and various legislative acts

1. After examining the new Romanian Constitution adopted by referendum on 8 December 1991, the Committee of Experts of the International Labour Organisation (ILO), at its session from 12 to 15 March 1992, made a number of observations addressed to the Romanian Government. The reports awaited from the Government have since been received by ILO and will be examined by the Committee of Experts at its March 1993 session. In the course of its work in 1992, the Committee took note in particular of the constitutional provisions concerning the free choice of occupation and workplace (art. 38), and the prohibition of forced labour (art. 39).

2. The Committee also noted the repeal of Decree No. 153 of 24 March 1970, under which categories of persons with a parasitic or anarchical way of life were liable to criminal penalties, and its replacement by Act No. 61 of 27 September 1991 laying down penalties for acts in breach of the rules of social cohabitation, of order and of the public peace.

3. The Committee also notes the provisions of Act No. 37 of 20 February 1991 on land tenure, which reorganizes the system of property, in particular by reintroducing the regime of private property, specifically in favour of members of agricultural cooperatives.

4. In addition, the Committee took note of the texts of the three basic acts of 1991 on labour adopted by the Romanian Parliament, namely, Act No. 54 regarding trade unions, of 1 August; Act No. 13 on collective labour agreements, of 8 February; and Act No. 15 on the settlement of collective labour disputes, of 11 February. The Committee observed with interest that the new texts mentioned above, in conjunction with the repeal of several legislative provisions on which it had commented earlier, changed the general orientation of the industrial relations system, established trade-union pluralism and the independence of the trade-union movement and recognized the principle of workers' right to strike.

B. Examination of various legislative provisions

5. In their observations, the experts of the Committee drew the Romanian Government's attention to the need to clarify or supplement some of the newly-introduced legislation. The legislation in question concerned the freedom of association and the protection of the right to organize (Convention No. 87); discrimination, employment and occupation (Convention No. 111); employment policy (Convention No. 122); workers' representatives (Convention No. 135); and the minimum working age and child labour (Convention No. 138).

1. Freedom of association and protection of the right to organize

6. The Committee emphasized to the Romanian Government the importance of certain aspects of the legislation, including: the exclusion of certain categories of workers from the right to organize; the free election of union

representatives, including for the conciliation process; the voting requirements for, and the objectives of, strikes; binding arbitration; financial liability of the organizers of a strike; restrictions and prohibitions of the right to strike, essential services and compensatory bargaining mechanisms; and provisions concerning the acquisition of legal personality.

7. The Committee also wished to know whether legislation concerning the rights and obligations of employers and their organizations had been adopted or was being prepared and whether the Act on the organization of labour and labour discipline in State socialist units (Act No. 1) had been repealed and replaced.

8. Regarding the right of workers without distinction whatsoever, to establish organizations of their own choosing (art. 2 of Convention No. 87), article 5 of Act No. 54 provides, among other things, that "employees who hold executive office or offices involving the exercise of public authority within parliament, the Government or ministries, or any central agency of the administration of the State, the prefecture or a municipality, or who hold the office of prosecutor or judge ... may not group together in a union."

9. According to article 9 of the Convention, only the armed forces and the police may be excluded from the right to organize. Persons occupying managerial positions, in both public and private sectors, should be entitled at least to form their own organizations (see the General Survey on Freedom of Association and Collective Bargaining of 1983, para. 89).

10. Regarding the right of workers to elect their representatives (art. 3 of the Convention), article 9 of Act No. 54 reserves eligibility for trade-union leadership for persons with Romanian citizenship who are employed in the production unit and have never been the subject of penal sanctions. A similar provision is contained in article 13 (3) of Act No. 15 regarding the election of the delegates of workers in the conciliation process.

11. The Committee recalls that, to be consistent with the Convention, legislation should allow foreign workers to be eligible for trade union office, at least after a reasonable period of residence in the host country; furthermore, a conviction on account of offences the nature of which is not such as to call into question the integrity of the person concerned and is not such as to be prejudicial to the exercise of trade union functions, should not constitute grounds for disqualification from trade union office (General Survey, para. 164); lastly, as regards the requirement of belonging to the enterprise in order to be eligible for trade union office, it would be desirable either to admit as candidates persons who have previously been employed in the enterprise, or to exempt from the requirement of belonging to the enterprise a reasonable proportion of the officers of an organization.

12. In addition, the Committee requests the Government to indicate whether there exist provisions for the choice of the delegates of the workers in the conciliation process, if none of them satisfies the conditions imposed by article 13(3) of Act No.15 (for example, if there is no worker with three years' seniority, in an enterprise which has been in operation for more than three years) which might stop the conciliation process.

13. Regarding the right of trade union organizations to organize their administration and activities and to formulate their programmes (art. 3 of the Convention), section 20(1) of the Act provides that the decision to call a strike shall be taken by the trade union "with the agreement of at least half of its members". The Committee points out, on the one hand, that the above provision does not specify how the agreement in question shall be expressed and supervised and, on the other hand, that it may be difficult for a trade union with a large membership dispersed in different workplaces or locations to obtain the agreement of at least 50 per cent of the workers, which could lead to a serious restriction of the right to strike. The provision of section 20(1) in fine, which lays down that the decision shall be taken by a majority of the voters in the event of a secret ballot, is in this sense more compatible with the principles of freedom of association.

14. Section 24(1) provides that strikes may be called only for the purpose of defending employees' occupational interests which are of an economic and social nature, and section 24(2) provides that the aims of the strike may not be political; furthermore, section 47(1) provides for heavy penalties, including the possibility of prison sentences of from three to six months, for organizers who have called a strike in violation of section 24(2).

15. The Committee recalls that, even if strikes that are purely political in character do not fall within the scope of the principles of freedom of association, a trade union's activities cannot be restricted solely to occupational questions; trade unions should therefore be able to express their views publicly on a Government's economic and social policy.

16. Furthermore, section 45(4) provides that, if one third of the normal activities of essential services is assured, strikes are authorized in the following services: health, pharmaceuticals, teaching, telecommunications, broadcasting, rail transport, including repairs of rolling stock, river transport and civil aviation units; State units responsible for public transport, for hygiene in public places, and for supplying the population with bread, milk, meat, gas, electricity, heating and water.

17. Section 47 provides for heavy penalties for violations of these provisions (imprisonment for three to six months, or a fine of 2,000 to 7,000 lei, or a harsher penal sanction).

18. In this connection, the Committee wishes to recall the principles established by the supervisory bodies:

(a) The right to strike is one of the essential means available to workers and their organizations for the promotion of their economic and social interests;

(b) Restrictions or prohibitions should be limited to public servants acting in their capacity as agents of the public authority or to services whose interruption would endanger the life, personal safety or health of the whole or part of the population;

(c) If strikes are restricted or prohibited in the public service or essential services, guarantees must be afforded to protect workers who are

thus denied one of the essential means of defending their occupational interests. Restrictions should be offset, for example, by adequate impartial conciliation and arbitration procedures, in which the parties concerned can take part at every stage. Arbitration awards should be binding on both parties and, once rendered, should be rapidly and fully implemented;

(d) If a minimum service mechanism is adopted, it should be restricted to operations that are strictly necessary to avoid endangering the life, personal safety or health of the population; moreover, workers' organizations should be able to participate in defining the minimum service;

(e) Lastly, penal sanctions should be imposed only where there are violations of strike prohibitions which are in conformity with the principles of freedom of association; in these cases, the sanctions should be proportionate to the offences committed, and penalties of imprisonment should not be imposed in the case of peaceful strikes.

2. Discrimination (employment and occupation)

19. The Commission of Inquiry constituted by the Governing Body of the International Labour Office (ILO) following the complaint filed in 1989 by a number of workers' delegates to the International Labour Conference against the Government of Romania concluded in its report of May 1991 that discriminatory practices based on political opinion and social origin might continue to occur in practice; that discrimination based on national extraction and race continued to exist to a serious extent against the Roma and, to a lesser extent, against the Magyars; and that no policy to promote equality of opportunity and treatment in employment and occupation, as called for in the Convention, existed.

20. The Commission recommended, as essential premises for the application of the Convention, the strengthening of the concept of the rule of law in Romanian society; the adoption of the principle of separation of powers; the establishment of an independent and objective judiciary including just rights of access, appeal and due process in judicial proceedings; and the observance of human rights, including freedom of association and of collective bargaining. The Commission specifically recommended that measures should be taken as soon as possible to end all discrimination in employment and occupation based on any of the criteria set out in the Convention, and in particular on political opinion; to dismantle the policy of assimilation and discrimination against minorities; to redress the effects of the former policy of discrimination; and to formulate and promote a policy of equality of opportunity and treatment in employment, occupation, training and education, including the development of a climate of tolerance for all groups of Romanian citizens regardless of their race, religion or national extraction. The Commission further recommended a number of specific actions to be taken to accomplish the above aims and that detailed information on all relevant developments be given in the annual reports on the application of Convention No. 111, submitted under article 22 of the ILO Constitution.

21. Concerning measures to establish the political, legal and social framework necessary to apply the Convention, the Committee notes with interest that in the new Constitution of 8 December 1991, political pluralism is

guaranteed; the separation of the legislative, executive and judicial powers is set out; a Defender of the People is to be appointed to defend the rights and liberties of the citizens; free access to justice is guaranteed along with the right to have an interpreter before the court; and the independence of judges and due process guarantees are established, as well as the right to personal freedom and the right to choose one's residence. The Committee also notes with interest the Constitutional provisions concerning the incorporation of international treaties, to which Romania is a party, into national law (art. 11) and the requirement for the rights and liberties of citizens under the Constitution to be interpreted and applied in conformity with the Universal Declaration of Human Rights and other treaties, and the priority given to international human rights treaties over national laws in cases of inconsistency (art. 20).

22. In its report, the Commission stressed the need to develop a climate of mutual tolerance in the country. In this respect, the Committee expresses its interest in article 30 of the new Constitution which establishes rights of freedom of expression but at the same time declares that such freedom shall not be prejudicial to one's dignity, honour, personal privacy and the right to one's own image and it outlaws instigation to national, racial, class or religious hatred. The Committee also emphasizes the importance it attaches to the declaration published by the Government on national minorities. The Committee requests the Government to report on the results these efforts have had on public opinion and to supply details on other measures contemplated or taken to foster understanding of the principles of equality of opportunity and treatment and tolerance between various groups of the population.

23. With regard to discrimination on the grounds of political opinion and social origin, article 4(2) of the Constitution of 8 December 1991 prohibits discrimination on all the grounds set out in Article 1, paragraph 1(a) of the Convention, including the grounds of political opinion and social origin. The Committee also notes with satisfaction that section 2 of the Labour Code as amended by Decree No. 147 of 1990, now also refers to political convictions and social origin as grounds on which discrimination is prohibited and that Act No. 30 of 15 November 1990, concerning the recruitment of employees on the basis of abilities, prohibits distinctions based on political, ethnic or denominational (religious) criteria, sex, age or economic situation.

24. Concerning discrimination on the grounds of national extraction and race, the Committee recalls that in previous comments it drew attention to the discriminatory effect of the former regime's policy of forced assimilation including discrimination against minorities in access to employment, training and education, largely on account of linguistic problems; and to resettlement policies affecting the Magyars (Romanian citizens of Hungarian origin). The Commission of Inquiry found conclusive evidence of the existence of discrimination in employment and occupation affecting members of national minorities on the grounds of national extraction and race. The Roma minority, and to a lesser extent the Magyar minority, are the two groups against whom discrimination is systematically practised. The repeal of the provisions respecting the arbitrary posting of graduates and the abolition of discriminatory administrative practices had contributed to the elimination of certain situations in which there had been complaints. However, the Commission observed that these measures alone have not restored equality for

the Magyars. With regard to the Roma, the Committee notes that the Commission of Inquiry concluded that no appreciable improvement in their situation had occurred since the events of 1989, and that direct discrimination appears to continue and is probably aggravated under the influence of the defamatory campaigns conducted by the mass media, which treat the Roma as scapegoats responsible for all past, present and future ills.

25. The Commission of Inquiry recommended a series of measures to be taken by the Government to improve the situation of these minorities, including the adoption of a language policy which would take into consideration the linguistic needs of members of these communities and facilitate their access to education, training and employment; the adoption of a national policy recognizing the cultural identity of the minorities; and the eradication of negative attitudes which had been particularly cultivated against the Roma.

26. The Committee thus notes with interest the provisions in the new Constitution which prohibit discrimination on the grounds of race, nationality or ethnic origin (art. 4(2)), and which recognize and guarantee, to any person belonging to a national minority the right to the preservation, development and expression of one's ethnic, cultural, linguistic and religious identity (art. 6(1)); and the requirements that protective measures taken for the national minorities shall conform to the principles of equality and non-discrimination in relation to other Romanian citizens (art. 6(2)).

27. The Committee notes with great interest the Declaration of the Government on national minorities, published in a national newspaper on 4 December 1991. In this Declaration, the Government recalls that the rights and obligations and freedoms established in its new democracy apply to all citizens including those members of minorities, and it pledges to guarantee the constitutional rights of minorities, including the preservation of their cultural identity and the right to study in their mother tongue. Persons belonging to the minority will be protected against attempts at forced assimilation and measures of exclusion and segregation. The Government recalls the penal sanctions against acts of violence committed against a person of another nationality on the basis of their nationality or ethnic origin and it reaffirms its intention to rigorously apply the law in this respect. It also pledges to denounce and combat nationalist hatred, fanaticism, racism and anti-semitism.

28. With reference to linguistic needs, the Committee notes with interest article 32 of the new Constitution which provides, inter alia, that education in all grades may be conducted in widely spoken foreign languages other than Romanian and that any person who belongs to a national minority is guaranteed the right to learn and to be educated in his mother tongue, pursuant to regulations. The Committee requests the Government to provide information on the manner in which education in the mother tongue of the Magyar and Roma minorities is guaranteed in practice and to supply copies of any regulations issued pursuant to this provision.

29. With respect to specific measures to improve the social and economic situation of the Roma, the Committee notes with interest the information provided in the Government's report on the adoption of a programme aimed at

of employment. The programme includes the hiring of 22 labour inspectors (13 of whom have already been engaged), constant contact and cooperation with the leaders of the Roma communities, the holding of training and retraining courses for unemployment Roma, the institution of an interministerial commission, a study on the construction of housing for the Roma, integrating the Roma into legal lucrative activities and collecting data on the Roma. The Government indicated that the census held in January 1992 will contribute substantially to this collection of data.

30. Regarding the situation of women workers, the Committee notes that it has not received information on the promotion of equality between men and women for a number of years. It requests the Government to provide information on the measures taken or contemplated to prevent discrimination on the grounds of sex and to promote equality of opportunity and treatment between men and women, and on the results obtained with regard to access to vocational training, to employment and to a particular occupation and terms and conditions of employment.

3. Minimum age

31. Under article 45(4) of the Romanian Constitution, minors under the age of 15 years may not be employed as wage earners. The Committee recalls that Romania, in accordance with article 2, paragraph 1 of the Minimum Age Convention (No. 138), on ratifying the Convention, specified the minimum age of 16 years for admission to employment or work. Furthermore, since the Convention specifies that no one under the minimum age shall be admitted to employment or work in any occupation, its scope is not restricted to remunerated work but covers all activities of an economic nature, regardless of the legal definition of the employment concerned.

32. The Committee asks the Government to indicate the measures adopted to ensure, in both law and practice, that the minimum age of 16 years is fixed for admission to remunerated and unremunerated employment. It also asks the Government to provide information on the practical application of the legislation giving effect to the Convention, such as statistical data on employment and school attendance of minors under 16 years of age, extracts of inspection service reports or particulars of the number and nature of violations recorded.

Annex III

INFORMATION PROVIDED BY NON-GOVERNMENTAL ORGANIZATIONS IN CONSULTATIVE STATUS (CATEGORY II)

Information received from Amnesty International

A. Introduction

1. In its publication Concerns in Europe covering the period from May to October 1992, Amnesty International reports allegations of torture and ill-treatment of members of the Roma community and ethnic Hungarians. The organization relates the following two incidents.

2. Sergeant-Major Gheorghe Nastase, belonging to military police unit UM 02180, based in Rahova, and George Bränescu, a Rom, resident of the same district, reportedly had a fight on 1 July 1992 that resulted in the hospitalization of the sergeant-major. The incident is said to have been investigated the same evening and on the morning of 2 July by a team from the Ministry of Interior and a group of soldiers from unit UM 02180. On 3 July, between 40 and 50 soldiers of the same unit allegedly went to the market at Piata Rahova, wearing camouflage uniforms and black headmasks and armed with rubber truncheons, chairlegs and pickaxes, and attacked the Roma who were at the market that day and beat them. It is stated that 13 people, including Gheorghe Mirchea, Ion Constantin, Maria Mircea, Anisoara Duman and Stefan Marcu, were struck and sustained injuries to the body and face. Two police officers and a unit of the Ministry of Interior stationed in Piata Rahova apparently did not intervene to protect the victims.

3. At around midnight on 1 May 1992, in the village of Lunca de Jos (Harghita), two police officers and a civilian reportedly broke into the home of Béla Tankó, where one of Tankó's friends, Filip Póra, was also present, and brutally beat the two persons, causing Tankó to lose consciousness. The police allegedly took a large sum of money belonging to the second victim. Although several neighbours had witnessed the reported ill-treatment of the two persons, the police are said to have made little effort to identify those responsible.

4. The organization also describes a case of alleged police brutality on 18 June 1992 in which Alexandru Tatulea, a student at the Faculty of Plastic Arts in Bucharest, was seriously injured by a police officer and a soldier who had asked to see his identity papers. Not being able to produce them, he was allegedly beaten by the two officers and then threatened with a pistol. A shot was unfortunately fired and the victim was reportedly wounded seriously in the head.

5. The police officer allegedly responsible for the incident was arrested in June, but released in October 1992. Thereafter, he reportedly went, together with four other police officers, to the home of Alexandru Tatulea to serve him with a summons to testify before the Military Prosecutor and endeavoured to intimidate him into withdrawing all charges.

Annex IV

INFORMATION PROVIDED BY OTHER NON-GOVERNMENTAL ORGANIZATIONS

1. Information received from International Helsinki Federation of Human Rights

1. In the documentation submitted by International Helsinki Federation of Human Rights (IHF), this organization also expresses its concerns about the plight of the Roma. It believes that, over the past few years, abuses have been committed against the Roma community, on many occasions with the active participation or tacit approval of the police.

2. The Federation also refers to the adoption by the Commission on Human Rights, in 1992, of resolution 1992/65 entitled "Protection of Roma (gypsies)" and to the work of the Conference on Security and Cooperation in Europe, in 1992, which in particular recommended the establishment of programmes to promote the integration of Roma in the life of society. In the Federation's view, the Roma will always be faced with major difficulties, due mainly to their poverty, low standard of education and particularly high rate of unemployment.

3. Following attacks on Roma homes in various parts of the country, the Federation cites the example of the village of Mihail Kogalniceanu, where the rebuilding of houses for some 200 Roms began in early 1992 with financial support from the German foundation "Zentralrat Deutscher Sinti und Roma". In connection with the rebuilding, a French-sponsored social assistance project has enabled the Roma community to bring their concerns before the local authorities. However, it is stated that hundreds of Roms are still forced to spend another winter in the ruins of their homes or under tents, with no aid from the Romanian Government.

4. The Federation underlines the failure to implement standards guaranteeing the rights of the Roma, including their right to non-discrimination, in the field of law enforcement and the judicial process. Romania's new Constitution sets out its international human rights obligations, particularly in article 11, which provides that treaties form an integral part of domestic law (see art. 26 of the International Covenant on Civil and Political Rights and art. 5 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination). Few prosecutions have been brought against those allegedly responsible for the attacks on the Roma. Reportedly the Roma have been encouraged not to file charges against their assailants and in some cases their silence has been the price for rebuilding their homes faster.

2. Information received from Helsinki Watch

5. Helsinki Watch believes that ethnic minorities in Romania continue to be victims of xenophobia, various forms of discrimination and sometimes ill-treatment.

6. The organization refers to local elections held on 9 February 1992 and the balloting which took place later at Tîrgu Mures for the election of the mayor. It states that the Hungarian candidate, Istvan Kiraly (Democratic

Union of Hungarians of Romania), was barred from running by a local court decision motivated by anti-Hungarian sentiment. This sentiment is said to have been based on allegations that the candidate had taken part in the events at Tîrgu Mures in 1990 and that, during the recent electoral campaign, he had exhibited an attitude of partiality towards his Hungarian colleagues, inciting an anti-Romanian attitude.

7. Helsinki Watch also reports that the mayor of Cluj, Gheorghe Funar, banned the use of Hungarian and bilingual signs and fined ethnic Hungarians for posting Hungarian signs at their places of business. It states that, on 28 April 1992, the mayor issued an executive order requiring anyone wishing to hold a meeting to notify the town hall, provide the names of the organizers and participants and indicate the purpose of the meeting and its location and duration. This is said to have prevented several organizations perceived as supportive of the Hungarian minority's interests from holding meetings. In some cases, and in particular when a local organization sought to meet representatives of a foreign foundation, the mayor of Cluj reportedly insisted that "observers" from his office should be present.

8. According to information obtained by Helsinki Watch, detainees in police stations in 1992 continued to be mistreated during initial interrogation. Some detainees reported that they had been beaten while tied to a stick suspended between two tables or had been restrained by handcuffs and leg-irons. Most of them said that they had been interrogated and had had their statements taken without counsel present.

9. In July 1992, Helsinki Watch sent a mission to Romania to investigate the treatment of detainees in police lock-ups. A newsletter issued by the organization in November 1992 criticized the cramped and dirty cells, lack of ventilation, infrequent opportunities for detainees to exercise and the continued use of physical restraints as a means of punishment.

10. In a report entitled "Prison Conditions in Romania", published in June 1992, Helsinki Watch examines the penitentiary system. It says that, although the Ministry of Justice and the Directorate of Prisons appeared to be committed to modernizing and humanizing the prisons, many aspects of the law are not being implemented. That would seem to be the case regarding the prohibition of the use of physical restraints and the ban on humiliating treatment such as shaving detainees' heads and forcing them to face the wall in the presence of visitors or prison personnel.